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ART. II. — *The Life of WILLIAM PINKNEY.* By his Nephew, the REV. WILLIAM PINKNEY, D.D. New York: Appleton & Co. 1853. 8vo. pp. 407.

THIRTY-TWO years have elapsed since the death of Mr. Pinkney. Hitherto, no adequate memorial of the prominent part he sustained as a lawyer, diplomatist, and statesman, in the concluding years of the last, and in the first quarter of the present century, has been presented to the world. He has lived in the mere echoes of his fame.

The diplomatist who attaches his name to no important state paper, the civilian who aids not the rise or downfall of parties and shares but cursorily in the guidance of national affairs, the advocate whose legal learning and unreported speeches confine their influence to the court-room, can have slender hopes of any substantial posthumous fame. Mr. Pinkney was all of these, and much more. Though too late for the Revolution and the formation of the Constitution, he was one of the earliest of our great men. It was his to illustrate at a memorable epoch, before the courts of Europe, the power and the spirit of the young republic, it was his to give the earliest renown to the American bar, and his, for good or evil, to advocate as its foremost champion the first of the slavery compromises. Great, however, as he was in his own generation, he is known to ours only by tradition.

To place upon a more enduring basis the reputation of so eminent a patriot, is the laudable effort of a near relative in the volume before us,—an effort which certainly merited a higher success than it has achieved. The present work scarcely supplies the existing deficiency, and will not take rank amongst standard biographies. There appears to have been a great dearth of materials, and such as exist are not skilfully arranged. The life-story is very meagre, filling but eighty of the four hundred pages. A series of ornately composed essays, entitled “Pinkney as an Orator,” “Wirt and Pinkney,” and the like, succeed. There is abundance of panegyric, but few facts, a great looseness as to dates, scarcely any characteristic anecdote, much declamation, and but little gen-

uine biography. When we remember the classic memorials erected to Mackintosh, Patrick Henry, and Wirt, we perceive here a deplorable inferiority. The book tells us of Pinkney, but does not reveal the man. Our acquaintance with him is no closer, our appreciation of him no livelier, than before. The professional part of Mr. Pinkney's life, and that on which his fame does and must mainly rest, is most unaccountably slighted, and concerning it we learn absolutely nothing of what we most wished to know, nothing to indicate the modes of his activity or the causes of his success, nothing either to satisfy intelligent curiosity, to direct diligence, or to enlighten emulation. Little even is shown, which, to a person previously unacquainted with Pinkney, would account for his high forensic renown. As a statesman he fares better, and we are furnished with many of his letters written from London to Madison and others, besides a tolerably ample report of two speeches delivered in Congress.

The memoir has, however, its merits. It is eloquently and feelingly written, and many of the deficiencies it was doubtless beyond the power of the author at this late day to supply. The general spirit of the writer, too, is worthy of all praise. He is enthusiastic in admiration of his subject, and writes, as he says, to present a model of integrity to the young men of the land.

William Pinkney was born at Annapolis in the State of Maryland on the 17th of March in the year 1764. His ardent affection for his birthplace was frequently manifested throughout his life. He loved, amidst the blandishments of London and St. Petersburg, to recall the sunny shores of the Chesapeake, and he was never so happy as when, at far distant intervals, he could become a boy again in their quiet neighborhood. How he passed his youth we are not particularly informed. He would appear to have received an excellent academic education in his native town; but he never entered college. The war of the Revolution was raging, and Annapolis was sometimes the actual seat of government of the Confederation, and not unfrequently a military station. Pinkney was already in his twentieth year, when Washington came thither to deliver his sword to the national Con-

gress there assembled in presence of the aristocracy of Maryland.

Although, as the issue proved, Pinkney possessed a remarkably legal order of mind, yet no special instinct directed him to his appropriate vocation. He first chose the medical profession, but abandoned it, and, commencing the study of law under the auspices of the distinguished Judge Chase, was admitted to the bar in 1786. At this time the science of special pleading was in its days of palmy repute, and young Pinkney pursued it with a relish which declared his aptitudes. Its keen, close, and subtile logic he cultivated with especial assiduity, and the influence of this training is observable everywhere in such of his legal arguments as are still extant. Unfortunately, no record of his early efforts at the bar remains, and we must content ourselves with the simple tradition that discerning friends early prophesied his success. In April, 1786, he was elected a delegate from Harford County to the Convention of the State of Maryland which adopted the Constitution of the United States. As to what part he took in this assembly we are ignorant. In 1789, he was married at Havre de Grace to Miss Ann Maria Rodgers, sister of Commodore Rodgers of the navy; and ten children, the issue of that union, survived him.

In October, 1788, he was chosen a representative to the House of Delegates from Harford County, which he continued to represent until 1792. It was in this body that he first drew upon himself as an orator the regards of others than his immediate neighbors. He opposed, in 1789, a bill which denied to masters the right of emancipating their slaves. It is curious at the present time, when we are so familiar with anti-slavery appeals directed to the reason, the imagination, and the sympathies, to go back to the infancy of this cause, and read his exceedingly elementary argument upon the ills of slavery. The youthful orator inveighs with warmth against "the arrogant iniquity which proscribes from the pale of society the negro victim of fraud and power because of his complexion, as if, forsooth, the Ruler of the universe had made the darkness of a skin, the flatness of a nose, or the wideness of a mouth, which are only deformities or beauties

as the undulating tribunal of taste shall determine, the *indicia* of his wrath." Mr. Pinkney goes further, advancing in fact upon the ground now occupied by the extreme champions of the negro. He appeals to the intelligent mind, and asks, "In what respect are the blacks inferior to the whites? . . . . Let the kind hand of attentive care mature their powers, let the genius of freedom excite to manly thought and liberal investigation; we should not then be found to monopolize the vigor of fancy, the delicacy of taste, or the solidity of scientific endowment. Born with hearts as susceptible of virtuous impressions as our own, and with minds as capable of improvement, they are in all respects our equals by nature, and he who thinks otherwise has never reflected that talents, however great, may perish unnoticed and unknown under inauspicious circumstances." He threatens the censure of an enlightened universe upon American slavery, and proclaims "Maryland the abominable nursery of slaves, the foster-mother of petty despots, and the patron of wanton oppression." The speech is, in truth, without any intrinsic merit, and gives no pledge of extraordinary powers of rhetoric or of reasoning, resembling rather a respectable juvenile performance at some well-ordered debating-club. He seems to have just risen from the perusal of Montesquieu's *Spirit of the Laws*, from which he makes liberal quotations, forcing it into his service at every turn. The oration is instructive, as showing what a degree of tolerance was then allowed to the discussion of slavery. It would certainly now be a hazardous undertaking to repeat his words in public anywhere south of the Potomac. With some show of justice, accordingly, was he, thirty years afterwards, taxed with inconsistency for his course upon the Missouri Compromise. But the fiery impetuosity of the politician of twenty-five had then subsided into the calmer movements of the statesman of fifty-five, and while age may have chilled his general philanthropy, it had extended the range of his mental vision, and suggested a more prudent patriotism.

In 1792, Mr. Pinkney was chosen a member of the Executive Council of Maryland. This board had formerly, like others of the same kind in sister States, much anomalous power. He remained in this post three years. In 1796,

President Washington selected him as one of the Commissioners on the part of the United States, under the seventh article of Mr. Jay's treaty with Great Britain. His duties in this capacity were entirely judicial, and consisted in administering international law in disputed matters relating to capture at sea. The war which had been waged for several years between England and France gave rise to numerous questions respecting the law of contraband, domicile, blockade, and the practice of prize courts. It would be out of place here to do more than allude to these labors of Mr. Pinkney. They occupied, more or less busily, eight years. His written opinions delivered at the board have always been considered models of cogent reasoning, of comprehensive wisdom, and of pure and elegant diction. Several of them, as that in the case of the *Betsey*, would furnish much entertainment even to the general reader, being without abstruseness, and treating of topics which would assuredly again demand notice in case of a maritime war.

The long period spent in London, although taken from the best portion of his life, depriving him of fair prospects of acquiring wealth and fame at home, and on that account not unfrequently a subject of regret in after years, was nevertheless occupied by him with characteristic activity. During this period he acquired a knowledge of the ancient languages. We are told that his attention was very mortifyingly turned to this point soon after his arrival in England. When he was one day at a large party of statesmen and lawyers, a question concerning a reading in Virgil was mooted, and opinions were warmly canvassed. In the course of the discussion, one of the company, perceiving the silence of Mr. Pinkney, and perhaps attributing it to modesty, challenged him for his opinion in the case, when he was obliged to confess, with many blushes, that he was not acquainted with Virgil. He immediately put himself under the charge of a private tutor, and applied himself diligently, not only to the mastery of the Latin and Greek, but also to the supply of other deficiencies of his early education. He moreover perfected himself in some nice matters,—such as Latin and Greek prosody,—which were scarcely attended to in America, though profi-

ciency in them was a matter of course with English scholars. London was then, as now, an excellent place for the study of elocution, and the ambition of Mr. Pinkney in this field led him to enjoy to the full its unusual advantages. In Westminster Hall, Erskine had but a few years before flashed like a meteor upon the English courts, and was now in the meridian of his fame, the acknowledged head of the bar. This accomplished advocate he so much admired, that he adopted him as a model for his imitation, and reproduced many of his peculiarities. The great amount of business in the English courts is no doubt a satisfactory, if not a decisive reason, why their practitioners are less famous for oratory than their Irish and Scotch brethren. With the former, the pressure of cases forbids the brilliant commonplaces and the ever-recurring flights of rhetoric, which are a kind of necessity to the aspirant across the Channel or beyond the Tweed. Hence has arisen at the English bar a concise and manly eloquence, such as characterized Lord Erskine. The influence of such a model exhibited itself in the subsequent career of Mr. Pinkney in a more compact elocution, a less ambitious and flowery style, and a more rapid train of argument. Sir William Scott, the famous Lord Stowell, was his frequent associate and companion. Lord Eldon is said to have often practised before the Commission, and it is no wonder that, in the presence of so astute a jurist, Mr. Pinkney was unwilling to appear deficient in legal knowledge. He was also a constant attendant upon the debates of both houses of Parliament. He was struck with the slow and syllabic utterance of Mr. Pitt, whom he greatly admired. He revered Wilberforce. Mr. Fox he considered as a speaker in spite of his nature and his stars. At the theatre he saw Mrs. Siddons "without emotion and without admiration." There was at this time in England an extraordinary galaxy of oratorical talent. He became familiar with a standard of eloquence wholly unlike that to which he had been accustomed at home. Instead of florid and impassioned harangues, the example of which had been set by Patrick Henry, and which always suited the taste of new communities, he witnessed a

grave and measured manner, in comparison with which warmth was undignified and passion ridiculous.

While in Europe he was watchful of the state of parties in his own country. He was a decided Federalist, and his earnest advocacy of Jay's treaty, in opposition to the clamors of its numerous enemies, had doubtless suggested his appointment as Commissioner. The great political revolution of 1800 of course disappointed him, but when the contest for the Presidency was reduced to Jefferson and Burr, he warmly favored the former, whose superiority in every particular he believed so decided as to leave no room for doubt to an impartial mind. Such expressions of opinion alienated some of his political friends; but, removed as he was from the immediate din of strife, he neither shared nor understood the vindictive hostility toward Mr. Jefferson. He did not credit the vague charges bandied about, that Mr. Jefferson was a disorganizer, an enemy to all efficient government, a Jacobin, and an infidel. The political rancor prevalent during Jefferson's and Madison's administrations has not been equalled since. Mr. Pinkney reprobated it. On his return home he himself nobly withstood the spirit of the times. He writes from London, August 8th, 1803:—

“I am prepared to find in America a spirit of party as high and frenzied as the most turbulent would have it. I am even prepared to find a brutality in that spirit which in this country either does not exist, or is kept down by the predominance of a better feeling. I lament that it is so; and I *wonder* that it is so, for the American people are generous and liberal and enlightened. We are not, I hope, to have this inordinate zeal, this extravagant fanaticism, entailed upon us,—although one might suppose it to be a part of our political creed, that internal tranquillity, or rather the absence of domestic discord and a rancorous contention for power, was incompatible with the health of the state and the liberty of the citizen. I profess to be temperate in my opinions, and shall put in my claim to freedom of conscience, but when both sides are intolerant, what hope can I have that this claim will be respected? At the bar, I must contrive as well as I can, for I *must* return to it. I have no alternative; and if I had, choice would carry me back to the profession.”

Of his sentiments concerning the important events in Eu-



rope, he writes, February 14th, 1800, just after Napoleon's *coup d'état* : —

“Of the late revolution in France, and of Bonaparte's advances to negotiation, with the rejection of these advances, you will have heard before this can reach you. I was present very lately in the House of Commons at the debate on the rejection of these overtures. So able and eloquent a speech as Mr. Pitt's on that occasion I never witnessed. Experience can decide alone how far the conduct he vindicated was wise. The Administration have undoubtedly sanguine hopes of restoring the house of Bourbon, and prodigious efforts will be made during the next campaign with that object. I do not think this will succeed. The coöperation of Russia still remains equivocal; but even if Russia should give all her strength to the confederacy, it will not have power to force upon France the ancient dynasty of that country, with all the consequences inseparable from it. The present government of that ill-fated nation is a mockery, — a rank usurpation by which political freedom is annihilated; but it is a government of energy, and will be made yet more so by an avowed attempt to overturn it by a foreign army in favor of the exiled family.”

Eight years had now elapsed since he received his appointment, and his impatience to return to the contests of the forum at home was on the point of being gratified. His eagerness was increased by anxiety to provide for the wants of a large family, to which, of course, his salary was quite inadequate. He writes on the 27th of August, 1800: —

“Be this as it may, it is time for me to think seriously of revisiting my country, and of employing myself in a profitable pursuit. I shall soon begin to require ease and retirement; my constitution is weak and my health precarious. A few years of professional labor will bring me into the *sear and yellow leaf* of life; and if I do not begin speedily, I shall begin too late. To commence the world *at forty* is indeed dreadful; but I am used to adverse fortune, and know how to struggle with it. It is not of small importance to me, that I shall go back to the bar cured of every propensity that could divert me from business, — stronger than when I left it, and I trust somewhat wiser. In regard to legal knowledge, I shall not be worse than if I had continued at home; I have been a regular and industrious student for the last two years, and I believe myself to be a much better lawyer than when I arrived in England.”

In August, 1804, Mr. Pinkney returned to the United

States, and embarked with renewed energy upon his professional pursuits. He took at once and with ease his place at the head of the American bar. His subsequent career was a series of triumphs. It was seen that his absence had refreshed and strengthened him for his proper sphere. In 1805, he was appointed Attorney-General of Maryland.

The encroachments of the British government upon neutral trade had now grown outrageous. They were founded upon a revival of the British *Rule of the War of 1756*, which interdicted to neutrals all trade not open to them in time of peace. Maritime law was just emerging from a chaos of ignorance and conflicting principles, and by the knowledge of the true equity of commerce even then attained, this old *rule* was seen to be untenable. One wonders at the jumble of discordant doctrines which so long passed under the name of international law. It required fifteen years of hostilities waged more vigorously than ever before at sea, and captures under every conceivable circumstance, before the present system was established, chiefly by Lord Stowell, upon firm principles. The experience of Mr. Pinkney as Commissioner in London enabled him to protest with authority against the obsolete *rule* and its revived application. He drew up an able memorial in January, 1806, addressed to the President and Congress. The thorough knowledge evinced in this masterly paper excited general admiration. He exposed the fallacy of the pretensions, which, referring neutrals to their peace trade, obstructed under divers pretexts every channel of commerce, systematized rapacity during all the shifting chances of war, and rendered any security to neutrals impossible.

We have now arrived at the point of time, from which Mr. Pinkney stood conspicuously before the world in the front rank of American statesmen. He was named by Mr. Jefferson, in April, 1806, joint commissioner with Mr. Monroe to settle the questions at issue with Great Britain, his politics being no longer thought adverse to the administration, and his practical conversance with the subjects in dispute seeming to demand the appointment. It was no trifling or light task that he undertook. The spiteful politician from Roanoke,

John Randolph, had lately quarrelled with Mr. Jefferson, and now unsparingly ridiculed the claims which Mr. Pinkney had defended in his memorial. "It is not for the honest trade of America, but for this mushroom, this fungus of war, — for a trade which, so soon as the nations of Europe are at peace, will no longer exist, — it is for this that the spirit of avaricious traffic would plunge us into war."

A considerable party in America, like Randolph, favored the British doctrines, drawing their ammunition from an able pamphlet, published in England by Mr. Stephen, entitled, "War in Disguise, or the Frauds of Neutral Flags." Another faction clamored for war, which at that day was not at all intended by the government. Moreover, Mr. Monroe was understood to be jealous of his colleague. Under such unfavorable auspices did Mr. Pinkney enter upon a task already embarrassing, and not likely in any event then probable to become easier. It must be confessed that our national reputation in Europe was at a very low ebb. The imputation was cast upon us, which is even now sometimes repeated upon the Continent, that we were incapable of the self-denial which every contest for right requires, and that our virtue was corrupted by commercial avarice. A country of traders and merchants was thought by the military nations of Europe reluctant to make sacrifices, and glad to consider a chance of gainful traffic a fair equivalent for insult. Great Britain herself, who, from the similarity of her own pursuits, might have been expected to judge more wisely, founded her hopes upon the supposed disaffection of many States.

The joint labors of Messrs. Monroe and Pinkney continued till November, 1807, when the former returned to America. If their merits as diplomatists were to be estimated by favorable results, there would be no occasion to recall their memory; but in diplomacy no more than in war or treason is success the sole touchstone of merit; and least of all, when the disposition of the aggressive party is so intolerant as we have represented it. Their exertions in the delicate controversy were precisely such as were needed, and were well judged, no less in the claims which they abandoned than in those which they urged. Delay could not be suffered, for

our commerce was perishing under the withering effects of the Orders in Council ; neither was abruptness allowable, for a conciliatory course was enjoined by the President. Theirs, however, is the merit of having very nearly averted the disgraceful war of 1812. Had their measures been ratified by Mr. Jefferson, the vexatious discussions of the next four years, with the war itself, would have been honorably avoided. At the very outset, they stumbled upon the delicate question which, not yet settled, agitates in our own day the public mind, the right of a subject or citizen to renounce the allegiance under which he was born. In discussing the subject of impressment, the British commissioners proposed that laws should be passed by both nations, making it penal on the one hand for British commanders to impress American citizens, and on the other, for any officer of the American government to grant certificates of American citizenship to British subjects. This might have been admissible, if both parties could have agreed in the definition of American citizens and British subjects. The general dogma, "Once a subject, always a subject," has some excellent reasons of convenience, and would save much contention. At that particular epoch, moreover, the national prejudices of England would not permit a specific renunciation of it. Their negotiators were notwithstanding willing to relinquish tacitly the practice of impressment and of search in American vessels, leaving the question of right in abeyance. The treaty thereupon concluded was signed in January, 1807. It was a very favorable one, founded principally on Mr. Jay's, and conceded many of the American claims concerning the carrying-trade. It was, however, positively rejected by Mr. Jefferson, who did not bring it to the notice of the Senate. Soon after, Mr. Pinkney was left alone, as we have before hinted, to wrestle as best he might with the increasing vexations of his position.

The year 1808 was, in England, a period of unusual national elation. The unhopèd for rising in Spain inflamed all minds. A *chateau en Espagne* set on fire the coolest heads. People looked for nothing short of a national regeneration in the Peninsula, and already the days of Ferdinand and Charles I. dawned on their excited vision. The trade of the Unit-

ed States became of less account, and an alliance of Spain and England, and the elevation of the Spanish colonies to their due commercial rank, promised to advance British interests more than a continuance of the contentious American intercourse. The government partook of the universal infatuation, and asserted that South America, dependent or independent, would be thrown commercially into the arms of Great Britain, and that, encouraged to exertion by a new order of things, she would soon rival the Northern Union in all its great agricultural productions. Our importance was thus to be diminished, if not annihilated, by the new competition. Full of this enthusiasm, England assumed a much higher tone than before.

The Orders in Council of 1807 had not been abrogated, and Mr. Pinkney, in pressing too eagerly for their repeal, laid himself open to a most severe rebuff from Mr. Canning. The former insinuated that the Embargo, so far as England was concerned, might be taken off, provided that country on her side would repeal the obnoxious measure. Mr. Canning cunningly entrapped him into making a formal and written offer, and then administered a sarcastic reply, making much of the assumed attempt of the Americans, by a suicidal course, to coerce English state policy. Mr. Pinkney experienced no little mortification from this rebuke; and even at this day, it would seem that, if the English ministers behaved with insolence in their maritime concerns, they joined to it a certain obstinate dignity; and if we may charge upon them a consistent disregard of national rights, we must allow that they could craftily put on a wonderful air of innocence. The American minister was naturally indignant at the sorry light in which he was made to appear; and at home some began to charge him with incapacity. There can be little doubt that the science of diplomacy — if a science it be — is best acquired by an exclusive devotion to it. Austria exists and flourishes by state-craft, and France has uniformly conquered England on the field of treaty-making, through the superior skill of her diplomatists. If America were nearer to Europe, and her interests more closely intertwined with those of European states, she might long since have learned that the ver-

satilily of her public men, by turns legislators, judges, secretaries of departments, and foreign ministers, is no compensation for the lack of superior accomplishments in a single branch of service. In the case before us, nothing worse was experienced than the putting us before the world in a false aspect; though in truth this was gained, that England now clearly revealed her duplicity in the negotiation, and her selfish recklessness of neutral rights.

Mr. Pinkney became anxious for a change of career. The climate of London was not suited to him. He began to be assailed with great acrimony and pertinacity in some of the American newspapers. The prime of his life was passing away in barren toil and anxiety, and while sacrificing himself and his family in the public service abroad, ill-disposed people were attacking his reputation at home. He longed to return to that vocation in which he was conscious of being in his own element; and, seeing no satisfactory issue of his mission, he claimed his recall in a letter to Mr. Madison from London, November 24th, 1810. After stating the insufficiency of his salary, he thus proceeds:—

“The claims of my family to my professional exertions have been too long neglected. Age is stealing fast upon me, and I shall soon have lost the power of retrieving the time which has been wasted in endeavors (fruitless it would seem) to deserve well of my country. Every day will, as it passes, make it more difficult to resume the habits which I have twice improvidently abandoned. At present I feel no want of cheerful resolution to seek them again as old friends which I ought never to have quitted, and no want of confidence that they will not disown me. How long that resolution, if not acted upon, may last, or that confidence may stand up in the decline of life, I cannot know, and will not try.”

On the 28th of February, 1811, he had his audience of leave with the Prince Regent at Carlton House, and, terminating his honorable and generally well managed, but unsuccessful mission, he arrived at Annapolis in June of the same year. He resumed his profession with his usual industry, and in the following December was appointed by Mr. Madison Attorney-General of the United States, in the same year in which Judge Story took his place upon the Supreme Bench.

Between these two distinguished men there sprang up a warm friendship, heightened on either side by a genuine appreciation of each other's worth. It is from the graphic sketches by the latter, contained in his published letters and in his lectures delivered at the Dane Law School, that those of the present day have derived much of their knowledge of Mr. Pinkney.

Transferred to the national arena of the Supreme Court, Mr. Pinkney displayed all his commanding abilities, the native wealth of his mind, and the solid acquisitions of an indefatigable industry. During the last ten years of his life, Judge Story states that he was never excelled, rarely equalled, by any advocate in the country. This proud preëminence was not due to any dearth of legal ability; for he had such men as Dexter, Wirt, Emmett, and Dallas for his competitors.

In making an estimate of Mr. Pinkney as a lawyer, two prominent characteristics force themselves upon our notice, his remarkable logical powers and his unparalleled industry. He was the greatest logician of the day, and the most unsparing student. The combination of these eminently legal *desiderata* made him such as he was. In his early days, he was, as we have seen, a not unambitious rhetorician, and to the last he cultivated the ornaments of diction; but the study of the best models in England and the progress of time developed a power of reasoning unsurpassed for accuracy and acuteness. His very statement of the case in hand, says Judge Story, was an argument. He was often wont to reduce to a pure syllogism his own or his opponent's argument, and thus to sum up in brief the merits of his cause. His style of discourse was so lucid, that his longest harangues were never dry or tedious, and were always listened to with unflagging attention. His intuition was prompt. He saw at once the vital point in controversy, and turned his attention to it, never pressing weak or subsidiary issues upon the court. On one occasion, when he had come into a suit at a late hour, his colleague announced to him what would be the line of his argument, and in the course of his conversation casually alluded to a point which he thought too weak to urge. "Do you," said Pinkney, in reply, "take the points that you

think of importance, and I will see what I can make of the other." When he made his argument, it was seen that this rejected point was actually the strong one in the case, and upon it he won the suit. When he used rhetorical metaphor, it was with a strict attention to logical propriety, and the argument seemed to have made a great stride by the illustration adduced. We quote below, as an example of this, a passage from his speech in the case of the *Nereide*, in 1815, probably the most important trial in which he was ever employed. It was one of several suits which arose in the last war, involving serious questions of international and maritime law. This sort of legal learning, now happily in limited demand by reason of the present long-existing peace, was that, as we have before intimated, of which Mr. Pinkney was especially a master. Uncommon interest was excited, not only by the reputation of the advocates, but also by the importance of the questions of public law. The case was briefly this. A native of the neutral country of Buenos Ayres had chartered a British armed and commissioned ship to convey his goods from London to Buenos Ayres, and had taken passage in the vessel, which sailed under English convoy. Having been separated from the squadron, it was captured by an American privateer. Mr. Pinkney, who appeared for the captors, thus satirizes the mixture of neutral and warlike character borne by the ship: —

"I entreat your honors to endeavor a personification of this motley notion, and to forgive me for presuming to intimate, that if, after you have achieved it, you pronounce the notion to be correct, you will have gone a great way to prepare us, by the authority of your opinion, to receive as credible history the worst parts of the mythology of the Pagan world. The Centaur and the Proteus of antiquity will be fabulous no longer. The *prosopopœia* to which I invite you is scarcely indeed within the power of fancy, even in her most riotous and capricious mood, when she is best able and most disposed to force incompatibilities into fleeting and shadowy combination; but if you can accomplish it, it will give you something like the kid and the lion, the lamb and the tiger, portentously incorporated, with ferocity and meekness co-existent in the result, and equal as motives of action. It will give you a modern Amazon, more strangely constituted than those with whom ancient fable peopled the borders of the Thermodon, — her voice com-



pounded of the tremendous shout of the Minerva of Homer and the gentle accents of a shepherdess of Arcadia, — with all the faculties and inclinations of turbulent and masculine War, and all the retiring modesty of virgin Peace. We shall have in one personage the *pharetrata Camilla* of the *Æneid* and the Peneian maid of the *Metamorphoses*. We shall have Neutrality, soft and gentle, and defenceless in herself, yet clad in the panoply of her warlike neighbors, with the frown of defiance upon her brow, and the smile of conciliation upon her lip, — with the spear of Achilles in one hand, and a lying protestation of innocence and helplessness unfolded in the other. Nay, if I may be allowed so bold a figure in a mere legal discussion, we shall have the branch of olive entwined around the bolt of Jove, and Neutrality in the act of hurling the former, under deceitful cover of the latter.”

To jurisprudence as a science, Mr. Pinkney was ardently devoted. The subtle distinctions and artificial logic of the common law, being in close harmony with his own order of mind, were from his earliest studies familiar to him. He was thoroughly acquainted with its feudal origin and technical peculiarities, and on these points, as well as on international law, his opinion came to be regarded by the courts, when consulted as an *amicus curiæ*, as decisive. He loved to reason from the analogies of the law, and to ascertain by a reference to its original principles and historical sources the proper rules for each particular case. He was often most eloquent on abstruse technicalities, and lingered with zest on black-letter precedents. In this way he sometimes hopelessly confounded his opponents. His accuracy was proverbial. Nothing of any moment that had a bearing on the case in hand failed to be cited by him, and he never made a mistake, either careless or intentional, so that the judges often deemed it superfluous to verify his authorities.

His love of the law was a passion. Here he found himself at home, and the luxuries of courts, the pleasures of society, and even the intercourse of private friendship and the repose that nature demanded, could not stand in the way of its indulgence. It was this master passion that stimulated his extraordinary diligence, and to it he ultimately sacrificed his life. His unremitting activity continued till the last moments of his career. Ambition, in truth, united with this absorbing passion. He prepared every case as if his whole professional

fame were at stake. No one ever labored to preserve and increase his legal reputation with more ceaseless vigilance. No day passed unoccupied. His ambition seemed to pursue him too remorselessly to permit more than very brief and casual recreation. He said to Mr. Wheaton, who remonstrated with him upon his labors when in a delicate state of health, that he "did not desire to live a moment after the standing he had acquired at the bar was lost, or even brought into doubt or question."

In deportment towards his brethren of the bar, he was often hard and overbearing. His own training had been so complete and thorough, that he looked with disdain upon ordinary accomplishments, and scarcely made allowance for inferior advantages and industry. He was frequently dogmatic and running over with sarcasm. This may in a measure account for the lack of harmony between Wirt and himself. The former, conscious of power and jealous of fame, could not well brook the almost hostile rivalry coupled with the arrogant assumption of his persevering and indefatigable opponent. Though Pinkney detested superficiality, and never hesitated to expose a spurious pretence to learning, he was fond of circuitous and pedantic ways of displaying his own erudition. His striking personal foibles were inordinate vanity and affectation. Though he drew up his arguments with great care, he wished to have it thought that his genius supplied all he wanted. When he was not quite prepared, he would get his case postponed, under pretence of a headache or some other ailment. He would sometimes sit up all night to be ready in a suit, and if there was a great party or a public meeting in the neighborhood, he would be sure to attend it, and to study the rest of the night after his return home. In the course of an argument, he would often refer to a particular author, premising that he was not quite sure how the authority was, he had not read it for so long a time; and then would proceed to recite the passage in the precise language of the book, endeavoring all the while to produce the impression that he quoted from his early recollection, when, in fact, he had studied it out for the very occasion.

His personal habits corresponded with such manners. His

neatness and attention to the fashionable costume of the day were carried to an excess, which exposed him to the charge of foppery. He piqued himself on being a finished and elegant gentleman, after the most approved usages of European society. When he was to address the court, which was now generally before a crowd attracted by his reputation, his toilet was arranged with more than usual precision. His coat of the finest blue was nicely brushed; his boots shone with the highest polish; his vest of perfect whiteness glittered with gold buttons; he sported in his hand a light cane; and seemingly on terms of perfect satisfaction with himself, he walked through the court-house with an air of ease and *abandon*, arising from complete self-confidence.

In February, 1814, he had resigned his Attorney-Generalship for a more independent and lucrative private practice. His career was interrupted by his appointment, in 1816, as Minister to the Court of St. Petersburg, with a special diplomatic commission to be executed at Naples. The motives of this temporary withdrawal from his legal practice are to be found in its laborious character. It became evident, that not even his robust constitution could sustain such intense and unintermitted toil, in which every exertion was a contest for victory, and each new success a fresh stimulus to ambition. His vehement manner of speaking also had worn upon him. It may be, too, that he suffered from his wounds in the battle of Bladensburg, where, heading a volunteer corps, he had been severely bruised among his compatriots, in the precipitancy of their escape from the field. In a conversation with one of his friends just after this double mission had been conferred upon him, he said:—

“There are those who wonder that I will go abroad, however honorable the service. They know not how I toil at the bar; they know not all my anxious days and sleepless nights; I must breathe awhile; the bow for ever bent will break. Besides, I want to see Italy. The orators of Britain I have heard, but I want to visit the classic lands of Italy, the study of whose poetry and eloquence is the charm of my life. I shall set my foot on its shores with feelings that I cannot describe, and return with new enthusiasm, I hope, new advantages, to the habits of public speaking.”

His annual emoluments at this time were more than twenty-one thousand dollars, an income then unprecedented among American lawyers. He offered this business to his friend, Judge Story; but the latter, after mature deliberation, preferred to continue on the bench.

Leaving Naples in October, 1816, Mr. Pinkney passed through Rome and Vienna to St. Petersburg, where he staid two years. His habits here were more regular than at home, though sufficiently studious, and not well adapted to the promotion of health. He breakfasted late and heartily. Then he retired to his study, and was seen no more until six o'clock. The evening he spent with his family or in visiting. He took very little exercise, indulged freely in eating, and was thought to suffer occasionally from a plethoric habit. His family saw scarcely any company, and he was satisfied with passing the evening in their society.

Mr. Pinkney returned, at his own request, in 1818. On the 4th of January, 1820, he took his seat in the United States Senate, having been elected, on the recent triumph of the Democratic party in Maryland, by the Legislature of that State, justly proud of his great name. But his career here was as brief as it was brilliant. He was transferred from the forum to the Senate, to make there the master effort of his life, and then to pass for ever from the stage. All the circumstances were such, on the 15th of February, 1820, as to arouse him to put forth his utmost exertions. It was the epoch of the Missouri Compromise.

The Union was convulsed with strife and menaced with dissolution. Rufus King of New York, venerable for thirty years of diplomatic and senatorial service, the *princeps Senatus*, had recently published his two speeches delivered at the previous session, "the signal guns of the Missouri controversy," in which he zealously maintained the power of Congress to prohibit slavery in the Territories. The South indignantly denied the claim, and a more than ordinarily brilliant delegation appeared from that part of the country to oppose it. Of these men Mr. Pinkney was selected as the champion. The occasion was one of imposing sublimity, and resembled in many respects that of Mr. Webster's speech on the 7th of

March, 1850. After a splendid exordium, in which he contrasts the different welcomes accorded to Maine and Missouri, he proceeds to arraign the injustice done to the latter, to disclaim the constitutional power of the old States to affix conditions to the admission of the new, to expound his view of the true compact of the Union, and to maintain the sovereign right of Missouri to recognize slavery by her own laws. He then defends the right of domestic slavery by the usages of Greece and Rome, and examines the Magna Charta, the Petition of Right, the Bill of Rights of 1688, and the Declaration of Independence, alleging the irrelevancy of these documents to the question at issue, and the fallacy of making the rightfulness of an act or system the measure of sovereign power. In a magnificent passage, he asserts the entire compatibility of slavery with a democratic government. This speech exists at present in fragments only, having been imperfectly reported, and Mr. Pinkney having refused to publish it. It is declared by Mr. Benton, in his History of the Government, to have been the most gorgeous speech ever delivered in the Senate, and to have been the most applauded.

He afterwards appeared seldom in his seat, and gave scarcely any attention to the current business, reserving himself for the bar, where his enthusiasm, his industry, and his learning seemed greater than ever. His last argument before the Supreme Court was in February, 1822. He was very much afflicted with a hoarse cold, so that he spoke with extreme difficulty. Judge Story saw the embarrassment under which he labored, and sent a message to him, advising him to cease speaking, and telling him that the court would adjourn for him. "Say to Judge Story," he replied to the messenger, "that I am much obliged to him for his kindness, but that I *must* go on; I have a reputation to maintain, and cannot sacrifice that." He finished his argument, but such was his exhaustion that he was obliged to take his bed immediately. Considerably restored, he sat up very late on the 17th of February, intently engaged in the perusal of Scott's novel of "The Pirate," which had just issued from the press. To a gentleman who was with him, he descanted freely upon the work, and criticized acutely and approvingly the characters of

the two heroines. Warmed by his subject, he spoke with much sagacity and eloquence upon the topics suggested, and displayed astonishing powers of memory. That night he was struck down with a fatal disease. He lingered through several days, generally in a delirious state, and expired on the 25th of February. He was buried in the Congressional burying-ground.

We may pronounce Mr. Pinkney's life a fortunate one. He was blessed with a numerous and happy family, and lived in an atmosphere of domestic affection. His talents were early appreciated, and throughout his life abundantly rewarded; both his native State and the nation delighted to confer upon him their highest honors; he was esteemed by the ablest and best men in England; at home he had Jefferson, Madison, and Story for his warmest friends; and the country at large believed in his patriotism and gloried in his renown. Crowds thronged the court-room and the Senate to listen to his eloquence, and judges gave heed to him as to an oracle. Death cast no long shadows on his path. He had just reached the summit of oratorical fame. He had not outlived his legal reputation, and he saw no rival to dispute his preëminence. All parties were awed by his sudden disappearance from the field of his brilliant and well-earned success, and concurred in the heartiest testimonials of praise and regret.